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National Practitioner Data Bank: Reporting Requirements, Compliance & A Nurse's Possible Response Actions

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TAANA 2020

Course Objectives

- Describe the states' authority to regulate the health care system.
- Explain the purpose for creation of National Practitioner Data Bank (NPDB).
- Distinguish between reportable and not reportable state licensure adverse actions.
- Identify the regulatory body' roles and responsibilities in reporting state licensure adverse actions to the NPDB.
- Identify the nurse's available response actions to an NPDB report.

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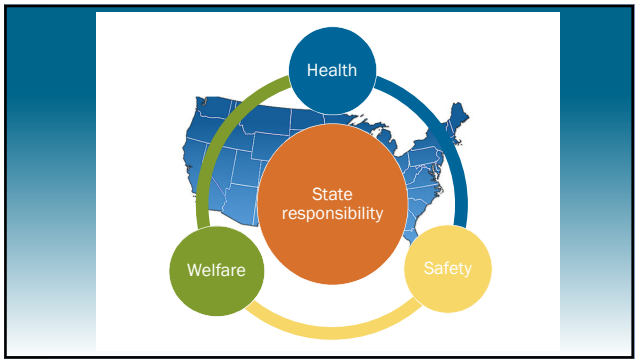

Regulatory Body

Each jurisdiction has responsibility and oversight of the nursing regulatory body (board of nursing)

U.S. regulatory bodies report to one of the following:

- Governor
- Both governor and a state agency
- State agency
- Another state official or organization

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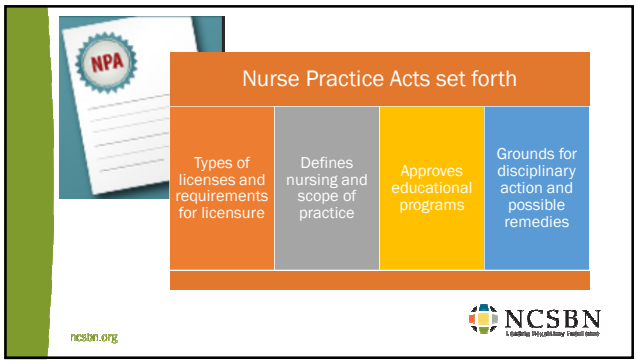
NPA
Nurse Practice Acts set forth
Types of licenses and requirements for licensure
Defines nursing and scope of practice
Approves educational programs
Grounds for disciplinary action and possible remedies
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COMPLAINT
FORM

Complaint
Triage
Investigation
Settlement or Hearing
Disciplinary Action

Disciplinary Actions

- Denial of License
- Reprimand
- Probation
- Suspension
- Revocation
- Censure
- Summary Suspension
- Warning
- Remediation
- Cease & Desist
- Fine
- Surrender

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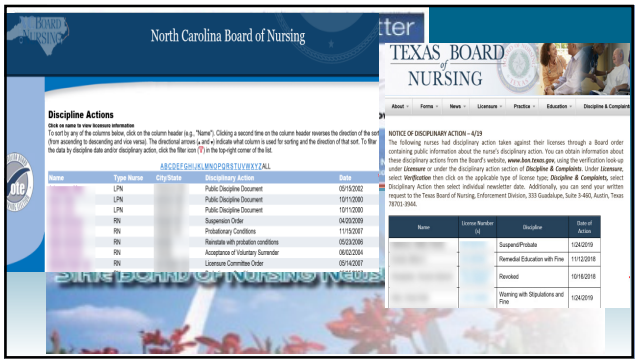
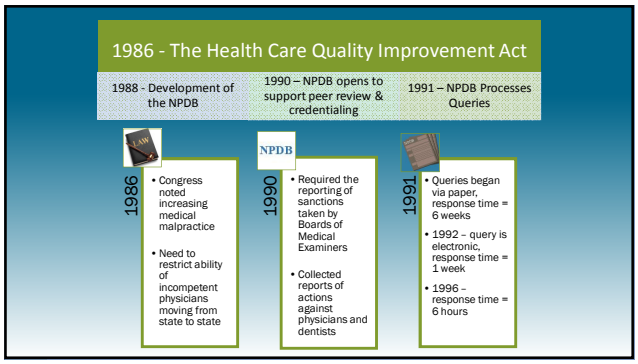


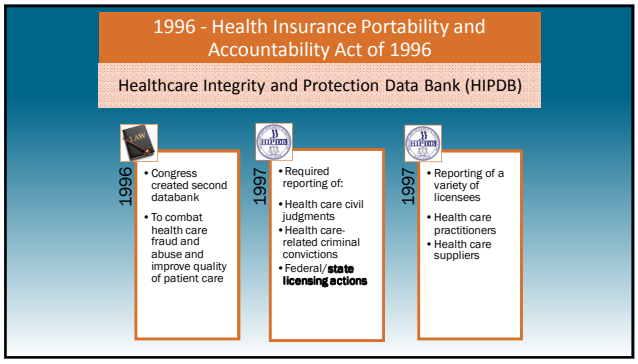
1986 - The Health Care Quality Improvement Act

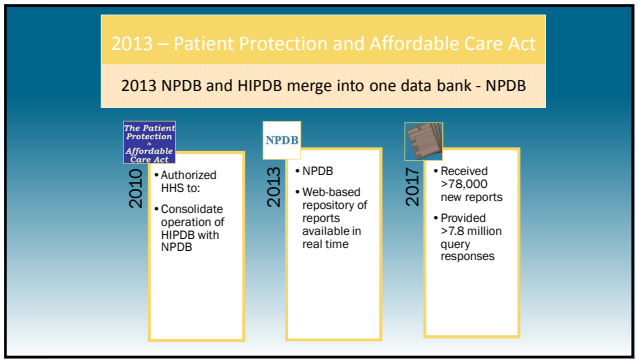
U.S. Department of Health & Human Services

NPDB NATIONAL PRACTITIONER DATA BANK

2013 - Patient Protection and Affordable Care Act

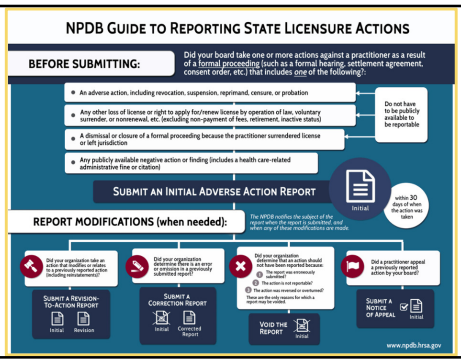

1986 - The Health Care Quality Improvement Act
1988 - Development of the NPDB
1990 – NPDB opens to support peer review & credentialing
1991 – NPDB Processes Queries
1986
• Congress noted increasing medical malpractice
• Need to restrict ability of incompetent physicians moving from state to state
NPDB
1990
• Required the reporting of sanctions taken by Boards of Medical Examiners
• Collected reports of actions against physicians and dentists
1991
• Queries began via paper, response time = 6 weeks
• 1992 – query is electronic, response time = 1 week
• 1996 – response time = 6 hours


1996 - Health Insurance Portability and Accountability Act of 1996
Healthcare Integrity and Protection Data Bank (HIPDB)
1996
• Congress created second databank
• To combat health care fraud and abuse and improve quality of patient care
1997
• Required reporting of:
• Health care civil judgments
• Health care-related criminal convictions
• Federal/state licensing actions
1997
• Reporting of a variety of licensees
• Health care practitioners
• Health care suppliers


2013 – Patient Protection and Affordable Care Act
2013 NPDB and HIPDB merge into one data bank - NPDB
2010
• Authorized HHS to:
• Consolidate operation of HIPDB with NPDB
2013
• NPDB
• Web-based repository of reports available in real time
2017
• Received >78,000 new reports
• Provided >7.8 million query responses

NPDB Requires Reporting for these Licensed Health Care Practitioners

Behavior Health Occupations	Physician
Chiropractic Service Provider	Physician Assistant
Counselor	Podiatric Service Provider
Dental Service Provider	Psychologist, Psychological Assistant
Dietician/Nutritionist	Rehabilitative, Respiratory, and Restorative Service Practitioner
Emergency Medical Technician	Social Worker
Eye Vision Service Provider	Speech, Language, and Hearing Service Provider
Nurse	Technologist/Technician
Nurse Aide, Home Health Aide & Other Aide	Other Health Care Practitioner
Pharmacy Service Provider	



What must be reported to NPDB?

Reportability is determined by 3 key criteria

- actions taken against health care practitioners
- as a result of formal proceedings
- publicly available

actions taken against health care practitioners

HEALT PRACI

Includes
- Revocation or suspension of a license
- Reprimand or Censure
- Probation
- Any dismissal or closure of a formal proceeding because the nurse surrendered the license or because the nurse left the jurisdiction
- Any other loss of license, or the right to apply for, or renew, a license of the health care practitioner, whether by operation of law, voluntary surrender, nonrenewal

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as a result of formal proceedings

FORMAL PROCEEDING

- Broadly includes formal hearings
- AND all other regulatory body processes that follow defined rules, policies, or procedures

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publicly available

Publicly available

- If viewable on regulatory body's website, database, newsletter, minutes
- Office would respond to a caller about disciplinary status
- Nursys Quick Confirm

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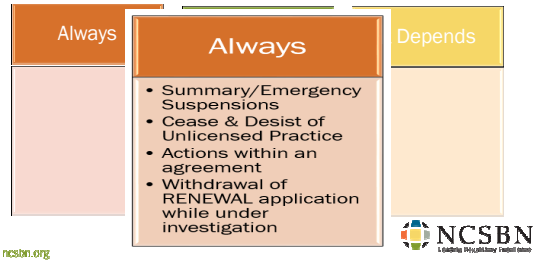
Exceptions to the three key criteria



It Depends on State Law

Letter of Concern or **Continuing Education Requirement**

- Reportable if
  - Action is a publicly available negative action per state law
- *NOT Reportable*
  - If action is not listed in state law

It Depends

Fines & Monetary Penalties

- Reportable if any of the following:
  - state adverse action, resulting from a formal proceeding or
  - publicly available, connected to delivery of health care services, or
  - publicly available, taken in conjunction with another disciplinary action
- *NOT Reportable*
  - If action is administrative

It Depends

Withdrawals & Failure to Renew while under Investigation

- Reportable if
  - while under investigation
    body is investigating the applicant
  - Licensee fails to renew license while regulatory body is investigating the applicant
- *NOT Reportable*
  - Initial application withdrawn while regulatory body is investigating the applicant

It Depends

Voluntary Surrenders

- Reportable if
  - Voluntary surrender with notification of investigation
    - **Plus one the following**
      - Requested to surrender license
      - Surrendered in exchange to cease an investigation
      - Surrendered in exchange to not conduct an investigation
      - Surrendered in exchange to not order a disciplinary action
- *NOT Reportable*
  - someone who no longer wishes to maintain a license

It Depends

Denial of Initial & Renewal Applications

- Reportable if
  - Denial of initial or renewal is for cause and is adverse actions, resulting from a formal proceeding
- *NOT Reportable if*
  - Denial is administrative, where the applicant does not meet threshold requirements for licensure

Reason for denial	Administrative or For Cause	Reportable
• Failure to meet educational requirement	Administrative	NO
• Failure to pass NCLEX	Administrative	NO
• Omitting or falsifying requested application information i.e. criminal or disciplinary actions	For Cause	YES
• Positive criminal background check	For Cause	YES
• Failure to answer all application questions	Administrative	NO
• Failure to pay registration fee	Administrative	NO
• Failure to meet continuing education requirement	Administrative	NO

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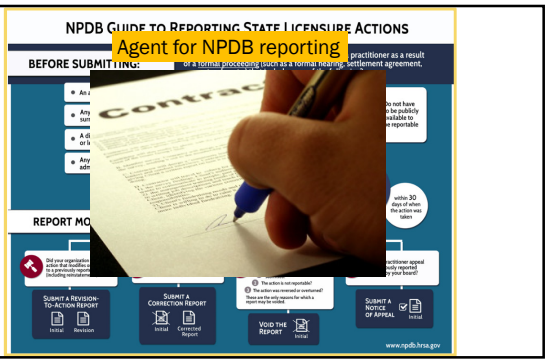

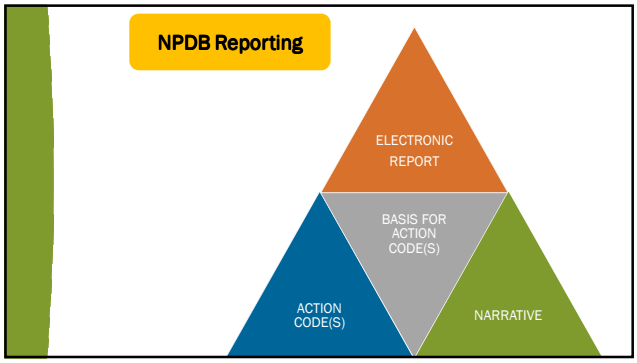

Actions - Initial

Table 16 - Licensure - Actions

Code	Description
1110	Revocation of License
1125	Probation of License
1135	Suspension of License
1138	Summary or Emergency Limitation or Restriction on License (NPDB Only)[1,2]
1139	Summary or Emergency Suspension of License (NPDB Only)[1,2]
1140	Reprimand or Censure
1145	Voluntary Surrender of License
1146	Voluntary Limitation or Restriction on License
1147	Limitation or Restriction on License
1148	Denial of License Renewal
1149	Denial of Initial License
1150	Interim Action - Voluntary Agreement to Refrain from Practice or to Suspend License Pending Completion of an Investigation (NPDB Only).
1151	Cease and Desist
1173	Publicly Available Fine/Monetary Penalty
1179	Prescriptive/Dispensing Authority Action - Not Classified, Specify,
1189	Publicly Available Negative Action or Finding Specify, [1]
1199	Other Licensure Action - Not Classified, Specify,

Actions - Revision

Table 17 - Licensure - Revisions to Actions (No Basis for Action Codes Required)

Code	Description
1110	Revocation of License
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1179	Prescriptive/Dispensing Authority Action - Not Classified, Specify,
1189	Publicly Available Negative Action or Finding Specify, [1]
1199	Other Licensure Action - Not Classified, Specify,
1280	License Restored or Reinstated, Complete
1282	License Restored or Reinstated, Conditional
1283	License Restored or Reinstated, Partial
1285	License Restoration or Reinstatement Denied
1295	Reduction of Previous Licensure Action
1296	Extension of Previous Licensure Action
1297	Modification of Previous Licensure Action

Basis for Action

Table 49 - Criminal Conviction or Adjudication

Code	Description
19	Criminal Conviction
18	Deferred Adjudication
B1	Nolo Contendere Plea
I1	Diverted Conviction

Table 50 - Confidentiality, Consent or Disclosure Violations

Code	Description
C3	Breach of Confidentiality
C2	Failure to Comply With Patient Consultation Requirements
C1	Failure to Obtain Informed Consent

Table 51 - Misconduct or Abuse

Code	Description
D4	Abusive Conduct Toward Staff
D7	Conduct Evidencing Ethical Unfitness
D6	Conduct Evidencing Moral Unfitness
71	Conflict of Interest
D5	Disruptive Conduct
D3	Exploiting a Patient for Financial Gain
16	Misappropriation of Patient Property or Other Property
D2	Non-Sexual Dual Relationship or Boundary Violation
14	Patient Abuse
D1	Sexual Misconduct
D8	Other Unprofessional Conduct, Specify,

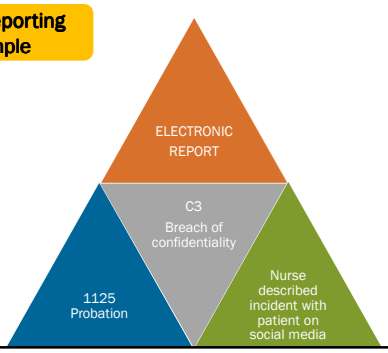
Narrative

Includes:
- clear description of the events which led to discipline
- description of relationship between codes

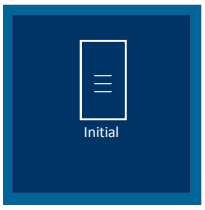
Format:
- Up to 4000 characters
- No personally identifying information about patients, other health care practitioners, witnesses, etc.
- Only statements of fact

Insufficient:
- see order attached
- revocation of license
- license suspended, see board order

NPDB Reporting Example



Initial Action Reports



Submit within 30 days of action

- Requirements
  - Action Code(s)
  - Basis for Action Code(s)
  - Narrative

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Revision-to-Action Reports

Modification of a board order

- Failed probation, now suspended
- Reinstatement of license after suspension or revocation
- Failed ATD program, now suspended

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Revision-to-Action Reports

Series of Medication Errors in 2015

INTIAL ACTION - Suspension

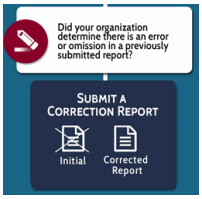
REVISION-TO-ACTION – Probation & CEs

REVISION-TO-ACTION - Restoration

Misrepresentation of credentials in 2017

INTIAL ACTION - Suspension

Correction Reports



Correction of a report

- Incorrect time period of action
- Incorrect code chosen
- Incorrect date entered

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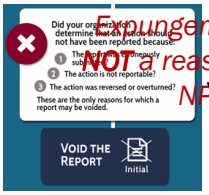
Void Reports



Voiding a report

- Only 3 reasons allowed to void a report
  - Erroneous
  - Not reportable
  - Overturned

Encouragement by a state is NOT a reason for voiding the NPDB report

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Notice of Appeal Reports

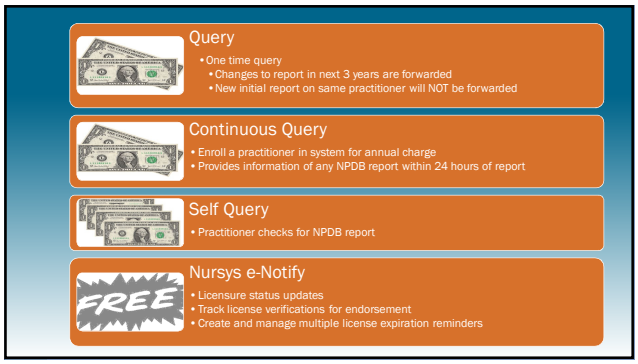
Notice of appeal report

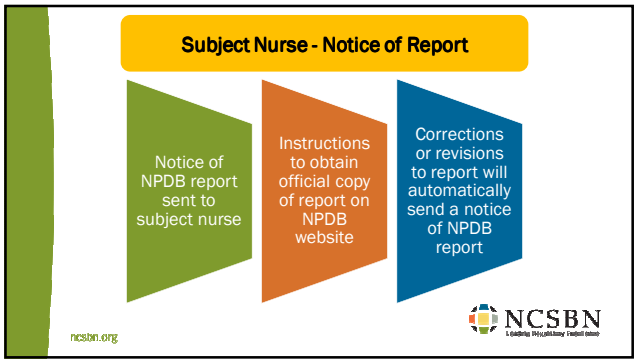
- When the NPDB processes a Notice of Appeal, it sends
  - report to board, subject, others who received the previous version of the report in the past 3 years

Who can query the NPDB?

- **Hospitals and other health care entities**
- Professional societies with formal peer review
- Quality improvement organizations
- **State licensing and certification authorities**
- Agencies administering federal health care programs
- Federal licensing and certification agencies
- Health plans
- State law enforcement agencies*
- State Medicaid fraud control units*
- State agencies administering/supervising the administration of state health care programs*
- Federal law enforcement officials and agencies
- **Practitioners, entities, providers, and suppliers (self-query)**
- Researchers (de-identified, statistical data only)

Not the Public


Query
• One time query
• Changes to report in next 3 years are forwarded
• New initial report on same practitioner will NOT be forwarded
Continuous Query
• Enroll a practitioner in system for annual charge
• Provides information of any NPDB report within 24 hours of report
Self Query
• Practitioner checks for NPDB report
FREE
Nursys e-Notify
• Licensure status updates
• Track license verifications for endorsement
• Create and manage multiple license expiration reminders


Subject Nurse - Notice of Report
Notice of NPDB report sent to subject nurse
Instructions to obtain official copy of report on NPDB website
Corrections or revisions to report will automatically send a notice of NPDB report
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What if the nurse disagrees with the report?
WHAT IF I DISAGREE?
Contact the reporting organization
Contact the reporting organization
Attempt to resolve the disagreement

Add a subject statement giving your perspective

At any time, you may write a statement containing any additional information. Your statement will be included with all future queries and also sent to all entities that received the report within the last 3 years.

Nurse places the **subject statement** in the report via the *Report Response Service*

NPDB removes confidential information & coarse language

NPDB sends the regulatory body & all *queriers* for last 3 years a copy

If there is a revision to the report by the regulatory body, the *subject nurse* may again update the statement or remove the statement

Place the report into Dispute Status

If you feel the report is not accurate, or was not submitted in accordance with NPDB reporting requirements. You may place the report into Dispute Status on the NPDB website. The dispute will become part of the report and the reporting entity and any queriers from the past 3 years will be sent a notification of the dispute.

Acceptable reasons to enter into **Dispute Status** per NPDB :

Disagreement with the factual accuracy of report

Report not submitted according to NPDB requirements

NPDB sends a copy of Dispute Status to regulatory body & all queriers for the last 3 years

NPDB does **NOT** review the report after the nurse enters Dispute Status

Dispute Resolution

If you have placed the report into Dispute Status and contacted the reporting entity, and they have not responded after 60 days or they will not modify the report, you may elevate to Dispute Resolution. Dispute Resolution will only address the factual accuracy of the report or whether it was submitted in accordance with NPDB regulations.

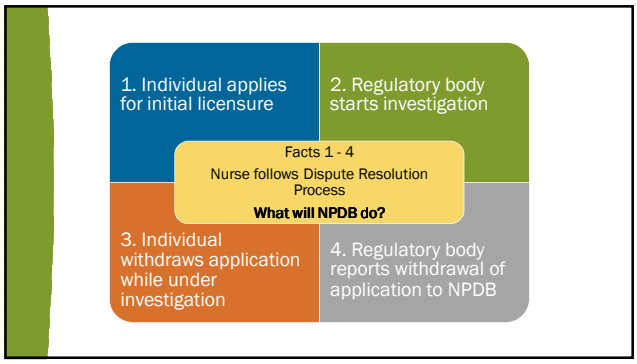
Subject nurse requests the report be elevated to **Dispute Resolution**, but first must:

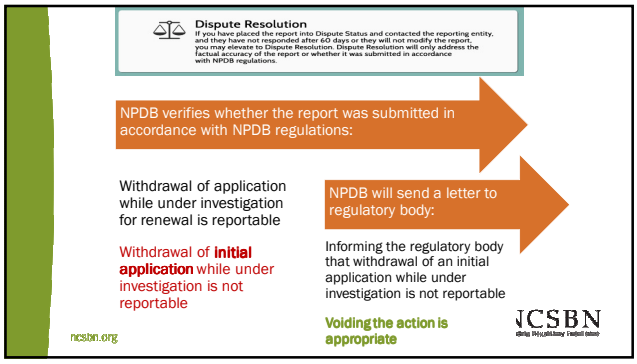
Step 1: Enter the report into Dispute Status

Step 2: Attempt to contact the regulatory body to resolve the issues

Step 3: Wait 60 days after entering into *Dispute Status**

Step 4: Present verification of the effort to contact regulatory body


1. Individual applies for initial licensure
2. Regulatory body starts investigation
Facts 1 - 4
Nurse follows Dispute Resolution Process
What will NPDB do?
3. Individual withdraws application while under investigation
4. Regulatory body reports withdrawal of application to NPDB


Dispute Resolution
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NPDB verifies whether the report was submitted in accordance with NPDB regulations:
Withdrawal of application while under investigation for renewal is reportable
Withdrawal of initial application while under investigation is not reportable
NPDB will send a letter to regulatory body:
Informing the regulatory body that withdrawal of an initial application while under investigation is not reportable
Voiding the action is appropriate
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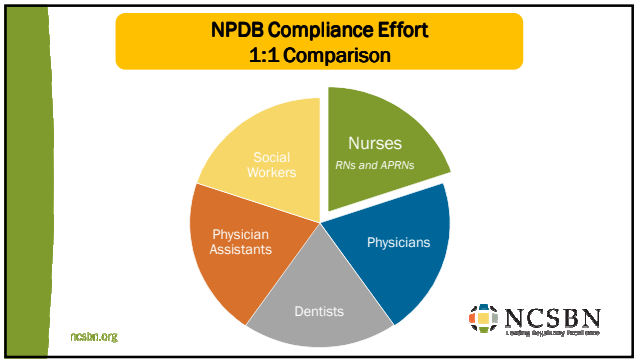
NPDB Compliance Effort
1:1 Comparison
Nurses
RNs and APRNs
Physicians
Dentists
Physician Assistants
Social Workers
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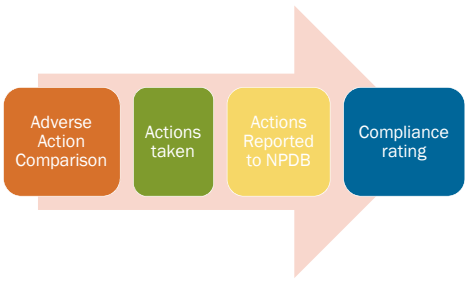
NPDB Compliance Audit 1:1 Comparison



Compliance Status

Compliant	*Working Toward Compliance*	*Non-compliant*	*Under Review*
100% compliance **or** Corrective action plan completed	Less than 100% compliance **and one of the following:** ▪ Sent corrective action plan ▪ Making progress ▪ Began, but not completed	Not begun reporting & no/inadequate response to NPDB **or** Did not substantially meet deadlines in corrective action plan	Letter requesting a response sent by NPDB **and one of the following** ▪ 30 day response deadline not passed ▪ Corrective action plan under review ▪ Mitigating issues

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Reporting of Nurse Discipline to the National Practitioner Data Bank

Kathleen Russell, JD, MN, RN

To maintain public safety, employers need current information on a health care practitioner's ability to practice safely. The National Practitioner Data Bank (NPDB) is a web-based repository that provides confidential information that employers may query in order to review whether a license is encumbered by a regulatory board action as well as review any reports of malpractice payments or other credentialing results. The NPDB is primarily a flagging system that should serve only to alert queriers there might be a problem with the performance of a health care practitioner. Although the presence of a report in the NPDB should not be the singular determinant of whether the practitioner is denied employment, it is important information to consider in hiring decisions. A thorough evaluation of the license ultimately serves to protect the public. This article highlights the reporting of state licensure adverse actions of nurses to the NPDB.

Keywords: Adverse actions, public safety, state licensure

Objectives

- Describe the states' authority to regulate the health care system.
- Explain the purpose for the creation of the National Practitioner Data Bank (NPDB).
- Discuss how information from the NPDB is used by queriers.
- Identify the three criteria for reportable adverse state licensure actions.
- Distinguish between state licensure adverse actions that are reportable and not reportable.
- Identify the board of nursings' (BONs') roles and responsibilities in reporting state licensure adverse actions to the NPDB.
- Identify the nurse's available response actions to an NPDB report.

Where a patient reaches a health care system or practitioner, the patient is vulnerable by virtue of illness, injury, and/or the dependent nature and unequal power base of the relationship. Consequently, the public has a vested interest in, and focus on how interaction with the health care system and practitioner may improve the physical or emotional wounds or add to their wounds. In addition, the patient is burdened by the need to choose a health care practitioner or system.

The state has authority to regulate the health care system by making laws to maintain public order, health, safety, and welfare (Gostin, 2010, p. 34). State regulation of health care systems and practitioners serves to protect and promote the welfare of the public by ensuring only safe licensure to practice is granted. Health care practitioner regulations and practice acts regulate who enters the profession and guide the actions of practitioners (Russell, 2017).

The majority of health practitioners are competent, caring individuals who provide a satisfactory level of care; however, when a practitioner's behavior or practice is questionable, a complaint may be filed with the practitioner's regulatory board. Beyond regulating entry to practice, regulatory boards are also responsible for reviewing and acting on complaints regarding health care professionals. Sometimes complaints lead to discipline, any action to protect future patients by ensuring only properly qualified and ethical individuals practice in the profession. Most boards maintain systems and disciplinary actions for public information (Russell, 2017). Regulatory boards use a variety of methods to communicate this information, including newsletters, databases, and websites.

Creation of the National Practitioner Data Bank

In 1986, the U.S. Congress noted the increasing occurrence of medical malpractice and the need to restrict the ability of incompetent physicians moving from state to state without disclosure of previous damaging or incompetent performance. By enacting the Health Care Quality Improvement Act of 1986 (1986), Congress detailed remedies for professional peer review and required the reporting of sanctions taken by Boards of Medical Examiners. This act led to the development of the National Practitioner Data Bank (NPDB) (Gostin, 2010, p. 34). Currently, in addition to the NPDB collected reports on medical malpractice payments, adverse licensure, clinical privileges, and professional soci-

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Thank you for listening.

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